

WHAT IS CSAT?

CONTROLLED SUBSTANCES AND ALCOHOL TESTING

LEGISLATIVE AUTHORITY

Section 34520 of the California Vehicle Code requires motor carriers and drivers to comply with the controlled substances and alcohol testing (CSAT) regulations of the Federal Motor Carrier Safety Administration. These regulations are found in Title 49 of the Code of Federal Regulations (49 CFR) Part 382. The complete text of the regulations may be viewed using the Internet at: www.fmcsa.dot.gov.

The regulations call for an employer-based CSAT program. Employers of commercial drivers are responsible to conduct a program intended to identify drivers of commercial vehicles who are using controlled substances, or abusing alcohol while on duty, and stop them from driving until the driver successfully completes a rehabilitation and return-to-duty testing program. This requirement includes an individual who is self employed, commonly known as an owner-operator.

The regulations call for testing of a urine sample for controlled substances, and breath testing for alcohol. The regulations prescribe when a test is required:

- *pre-employment testing,*
- *post-accident testing,*
- *random testing, and*
- *reasonable suspicion testing.*

If a driver refuses to submit to a required test, the refusal is treated the same as a positive test result. Additionally, in the event that a driver has violated the prohibitions, there is a requirement to perform *return-to-duty testing* before the driver can once again operate a commercial motor vehicle, and *follow-up testing* for at least 12 months after the return-to-duty test. All testing must be conducted in accordance with the United States Department of Transportation rules for CSAT. These rules are found in 49 CFR Part 40.

The CHP is authorized by statute to conduct inspections of a carrier's CSAT program, and issue a rating indicating the carrier's CSAT compliance. Since the California Vehicle Code incorporates the federal regulations, the CHP uses the federal definitions and interpretations when determining a carrier's CSAT compliance. Inspections are to be conducted at the carrier's principal place of business.

WHO IS REGULATED?

The CSAT regulations apply to the employers and drivers who operate commercial motor vehicles which require a commercial driver's license. The definition of commercial motor vehicle is included below.

COMMERCIAL MOTOR VEHICLE means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

- (1) Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or**
- (2) Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or**
- (3) Is designed to transport 16 or more passengers, including the driver; or**
- (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).**

There are some specific exceptions to the CSAT requirements. Transit bus carriers which are required to conduct a CSAT program under 49 CFR 655 are not subject to the requirements of Part 382. In addition, drivers of certain vehicles who do not require a commercial driver's license, under either the federal or state regulations, are not subject to the CSAT requirements.

In California, a vehicle with a passenger capacity between 11 and 15 passengers, including the driver, is defined as a bus. California buses with a passenger capacity of less than 16, including the driver, are *not* subject to the CSAT requirements.

THE PROHIBITIONS

The term "controlled substances" includes:

- *Marijuana,*
- *Cocaine,*
- *Amphetamines,*
- *Opiates, and*
- *Phencyclidine (PCP).*

The use of these substances by commercial drivers is prohibited at all times. These five substances are the only substances for which testing may be conducted under the DOT regulations. When a driver has a positive test result, the employer must not permit the driver to drive a regulated vehicle until the driver has successfully completed the return-to-duty process identified in regulation.

Use of alcohol is generally legal, but not while driving a regulated vehicle, or within 4 hours prior to driving a regulated vehicle. When a driver has an alcohol test result with a blood alcohol content of .02 or greater, but less than .04, the employer must not permit the driver to drive a regulated vehicle until at least 24 hours has past following the test. When a driver has an alcohol test result with a blood alcohol content of .04 or more, the employer must not permit the driver to drive a regulated vehicle until the driver has successfully completed the return-to-duty process identified in regulation.

PRE-EMPLOYMENT TESTING

An employer may not use a driver to drive a regulated vehicle until after the employer has received a negative test result from a pre-employment controlled substances test. If the

employer does not receive any results, the employer can not use the driver. There's an exception to the requirement for pre-employment testing, provided the driver has been continuously enrolled in a CSAT program.

POST ACCIDENT TESTING

Drivers must be tested for controlled substances and alcohol as soon as practicable after certain traffic collisions, involving a commercial motor vehicle, occur on public roads. Drivers are prohibited from using alcohol after such collisions for either eight hours, or until a post-accident alcohol test is conducted, whichever occurs first. The following table indicates when a test is required:

Type of Collision	Was the driver cited?	Employer must test
Fatal (Someone died from the collision)	Yes	Yes
Fatal (Someone died from the collision)	No	Yes
Injury (Someone required medical help away from the scene)	Yes	Yes
Injury (Someone required medical help away from the scene)	No	No
Disabling Damage (one or more vehicles required towing)	Yes	Yes
Disabling Damage (one or more vehicles required towing)	No	No

RANDOM TESTING

Every employer must have a random CSAT program in place. Drivers must be selected at random and sent immediately for testing. The current random selection rates are 50% of driver positions each year for controlled substances, and 10% of driver positions each year for alcohol. The random selection rates are subject to change. Random selections must be reasonably spread out throughout the year, and the selections must be made by a scientifically valid random method, such as a random number table or a computer-based random number generator.

REASONABLE SUSPICION TESTING

A driver must submit to a CSAT test any time the employer has a reasonable suspicion to believe the driver has violated the CSAT prohibitions. Only a supervisor who has been properly trained may make the determination to test. Each supervisor is required to receive a minimum of one hour of training on alcohol abuse, and one hour of training on controlled substances abuse.

PREVIOUS EMPLOYER INQUIRY

When an employer hires a new driver, the new employer must contact all of the driver's previous employers within the prior 2 years. The purpose of the contact is to inquire if the previous employer is aware of any violations of the CSAT prohibitions committed by the driver. The driver must sign a written authorization to release the information from the previous employer to the new employer. If the driver does not sign the authorization, the new employer can not use

the driver. The new employer must have information from this inquiry on file within 30 days of hiring the driver, or the new employer may not continue to use the driver.

CSAT POLICY/DRIVER EDUCATION MATERIALS

Employers must educate their drivers as to what is expected of them when it comes to CSAT. Drivers need to know the CSAT regulations, as well as the employer's specific procedures for occasions where the regulations are silent. Employers must retain a certificate of receipt, signed by each driver, certifying that the driver has received a copy of such materials.

RECORD KEEPING

Employers are required to retain all records pertaining to their CSAT program. CSAT records must be made available for inspection by the CHP or Federal Motor Carrier Safety Administration within 48 hours if requested. All CSAT records which identify a driver must be kept confidential. It is important to have a place where these records can be locked-up, and access to these records strictly controlled.

CSAT SERVICE PROVIDERS

The regulations allow for third parties to act on the employer's behalf under certain circumstances. There are many companies who provide CSAT services, and are in the business of helping employers comply with the regulations. Generally, such a company is known as a consortium or a third party administrator. Regardless of who performs CSAT services for an employer, the employer remains responsible to ensure all regulated CSAT activities are done in compliance with 49 CFR, Parts 40 and 382. Many CSAT service providers advertise their services in the local telephone book or on the internet, under the heading "drug and alcohol testing."

THE INSPECTION

A CSAT inspection, or carrier inspection, is intended to determine if an employer is in compliance with the CSAT regulations, and will take place at the employer's principle place of business (main office). If the principle place of business is also a terminal where a terminal inspection is conducted, the carrier inspection will take place at the same time. There is no cost for a carrier inspection.

During the scheduling contact, the inspector should determine what drivers are subject to CSAT, and inform the employer of the records and information which must be made available at the time of the inspection. Employers are permitted at least 48 hours to obtain the requested records. If the records are maintained by the employer's consortium or third party administrator, it is the employer's responsibility to obtain them and present them during the inspection.

A rating is assigned to indicate the compliance level of the employer, either "satisfactory," or "unsatisfactory." Unsatisfactory rated employers will be notified of the unsatisfactory conditions, given direction to correct the conditions, and receive a reinspection within 120 days.

NOTICE

This document is intended to give the general public an overview of BIT Program requirements, and is not intended to be used as a legal reference. While every effort to is made to ensure the accuracy of the information, the statutes explained herein are subject to change without notice.